IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8269 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRATAPBHAI T DESAI

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioner

MR RC KODEKAR, AGP for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 06/03/2000

ORAL JUDGEMENT

(Per : Panchal, J.)

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction, restraining the respondents from removing the petitioner from the post of Chairman of Surat Urban Development Authority.

2. Surat Urban Development Authority is established and constituted under the provisions of the Gujarat Town Planning and Urban Development Act, 1976. The terms and conditions of the office of Chairman of Surat Urban Development Authority are regulated by sub-section (5) of Section 22 of the said Act.

3. In the year 1995, general election of the Gujarat State Legislative Assembly was held and on March 14, 1995, new Government headed by Shri Keshubhai Patel was installed. The petitioner was appointed as Chairman of Surat Urban Development Authority by the Government of Gujarat in exercise of powers conferred by sub-section (4) of section 22 of the said Act vide notification dated September 8, 1995, a copy of which is produced at Annexure-A to the petition. On September 19, 1996, President's Rule was imposed in exercise of powers conferred under Article 356 of the Constitution,in the State of Gujarat and on October 11, 1996, general election of Gujarat State Legislative Assembly had taken place. Shri Shankersinh Vaghela had formed ministry and was elected as the Chief Minister of the State of Gujarat. According to the petitioner, a statement was made by Shri Shankersinh Vaghela asking the Chairman of different Corporations and Boards to resign in the wake of formation of new Government. The petitioner apprehended that the respondents would issue order removing him from the Chairmanship of Surat Urban Development Authority. It was the case of the petitioner that he was appointed as Chairman under a statute and, therefore, cannot be removed from the said post before the expiry of the term. Under the circumstances, the petitioner has filed present petition and claimed reliefs to which reference is made earlier.

4. The other petitions involving the similar question were pending before Division Bench and, therefore, this matter was also ultimately placed before Division Bench for hearing. The Division Bench (Coram : S.M.Soni & S.D.Pandit, JJ.) by an order dated December 18, 1996 refused to grant interim relief, but admitted the matter. That is how, the matter is placed before us for final hearing.

5. Mr. Y.N.Oza, learned Counsel for the petitioner states at the Bar that with the passage of time the petition has become infructuous and, therefore, the same be disposed of accordingly. In our view, because of subsequent events like change in political scenario as well as enactment of new statute i.e. The Gujarat Statutory Bodies Laws (Amendment and Validation) Act, 1999, the petition has become infrucutous with the passage of time. The issue involved in the petition has become academic in nature and it is well settled by catena of decisions of the Supreme Court that academic questions should not be decided by the High Court in a petition filed under Article 226 of the Constitution. Thus, the petition having become infructuous, deserves to be disposed of accordingly.

6. The fact that the petitioner was appointed as Chairman of Surat Urban Development Authority for a period of 3 years from September 8, 1995, is not in dispute. We may state that at present Shri Shankersinh Vaghela is not the Chief Minister of the State and another ministry headed by Shri Keshubhai Patel is already installed in the State of Gujarat. The tenure of the petitioner as Chairman of the Authority was only for a limited period and, therefore, we are of the opinion that the learned Counsel for the petitioner is right in stating that the petition has become infructuous with the passage of time and should be disposed of accordingly. Therefore, the request made by the learned Counsel for the petitioner being just and reasonable, deserves to be accepted.

For the foregoing reasons, the petition fails. Rule is discharged, with no order as to costs. The petition stands disposed of as having become infructuous.

6.3.2000 (J.M.Panchal,J.) (A.M.Kapadia,J.)

(patel)